

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IRENE GRACE,)	
)	
Plaintiff,)	
)	
vs.)	3:06CV306
)	3:08MD1932
FAMILY DOLLAR STORES, INC.,)	
)	
Defendant.)	
_____)	

This matter is before the court upon Defendant's objections to the Motions to Intervene filed on August 20, 2008 by Brian Backlund, Tammie Brunson, Sharon Cantrell, Dandra Carney, Judy Carver, John Herbert Morrison, and William Tedder. Defendant submits that these individuals' claims are time-barred.

This case was originally filed as a class action alleging violations by the Defendant of the Fair Labor Standards Act. Approximately fifty-nine individuals opted-in. On September 6, 2007, this court determined that the case was not appropriate for collective action treatment. As a result, the claims of the individuals who had filed opt-in consent forms were dismissed without prejudice. At a status hearing on June 23, 2008, the court ruled that former opt-ins who remain interested in pursuing their claims could file motions to intervene into this lawsuit within sixty days. The individuals listed above, along with others, filed motions to intervene as allowed by the court.

The limitations period for filing overtime claims under the FLSA is three years (1095 days) for willful violations. 29 U.S.C. § 255(a). This limitations period runs until each claimant files his or her written consent to become a party plaintiff. 29 U.S.C. § 256. The Declaration of

Michelle DeBrocq, filed by the Defendant in support of its opposition, sets forth the date each of these named putative intervenors last worked as a store manager. For each of these individuals, the limitations period ran from the date they were last employed as a manager to the date they filed their original opt-in consent forms, and then began to run again on September 6, 2007 when this court ruled that the case would not proceed as a collective action. For each of these named individuals, the limitations period of 1095 days expired before they filed their motions to intervene. In fact, Sandra Carney's limitations period expired prior to the filing of her original opt-in consent form. As their claims are now time-barred,

IT IS THEREFORE ORDERED that the Motions to Intervene by Brian Backlund, Tammie Brunson, Sharon Cantrell, Dandra Carney, Judy Carver, John Herbert Morrison, and William Tedder are hereby DENIED.

Signed: October 20, 2008

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

